for Christmas. What could be more suitable

CARTER CASE

t Attorney General Simthe Supreme Court.

seprived of His Rights n the Matter.

15, December 15.-The brief Attorney General Simmons Carter murder case has been court of the United grincipal point upon which rlaims a reversal of the of the lower court is important, he not heretofore been adjudi-he higher courts, the case is

ha higher courts, the case than usual interest. Follow-mare brief: a supreme Court of the United in supreme Term, 1899—Seth Car-Term, 1899october Term, 1883 Settl Carlotte in Error, va. the State of Defendant in Error—Brief for at it Error, the State of Texas, afferney General, T. S. Smith. EMENT OF THE CASE.

attf in error, Seth Carter, brings to the supreme court of the case by means of a writ of error, super 16, 1898, out of the circle of the United States for the et of Texas, directed to the erminal appeals of the State of ich said court is the court of in the State of Texas for all the State of Texas for all church As there is no brief on the balled States supreme court on the plaintiff in error, the State of the attorney general, T. S. In this brief for the State of its thing the state of its etendant in error, and relies for error upon which a reversal of sought, upon the printed of record" filed herein on the of January, 1899.

originated in the county of are originated in the county of and State of Texas. On the 26th brember, 1897, the grand jury in Gaireston county presented to and us be filed in the criminal district Galveston county an indictment laintiff in error, charging him murder of Bertha Brantley, on 14, 1897. (Tr., p. 2.) 1898, the court entered an

the clerk of the court to issue a is summon 150 persons, whose mit to be and appear before the district court of Galveston counto the trial of plaintiff in error, a purpose in the trial thereof. t said 3.) Upon the day set for did the cause the plaintiff in er-the following motion to quash the

e of Texas, Galveston County .of Texas vs. Seth Carter. No. -in the Criminal District Court, Term, 1898. comes the said defendant, to

person, and moves the

but him, because the jury comappointed to select the grand in the case.

a found and presented said in Wherefore, the plaintiff in error prays Wherefore, the plaintin in error prays that the judgment and sentence of the said trial court and of the said court of error on said grand jury, but, county, did exclude from the list reversed and held for naught.

Wellford H. Smith, d found and presented said inand that said grand jury was lurors, were excluded therea a person of color and of Afriknown as a negro, and that migation is a denial to him qual protection of the laws and fall rights guaranteed by the conand laws of the United States; all the defendant is ready to verify. Seth Carter

n to and subscribed before me this by of January, 1898.

as of Texas vs. Seth Carter-No.

The court of criminal appeals delivered a lengthy opinion upon the motion for reharing, December 7, 1898, overruling said motion. (Tr., pp. 39-44.)

Upon the 16th day of December, 1898, a writ of error to the judges of the court of criminal appeals of the State of Texas, issued out of the circuit court of the United States for the Eastern district of Texas.

motions being made on the ground that the jury commissioners appointed to select the list of petit jurors from which the panel was drawn which tried the plaintiff in error selected no persons of color or of African descent, known as negroes, to serve on said grand or petit jury, but, on the contrary, did exclude therefrom all persons of color or of African descent, known as negroes, although consisting of and constituting about one-fourth of the population and of the registered voters in said city and county of Galveston, and although otherwise qualified to serve as such grand and petit jurors, were excluded ed therefrom on the ground of their race and color, and have been so excluded from serving on any jury in said criminal distribution and laws.

The case at bar, however, is not such a and color, and have been so excluded from serving on any jury in said criminal distribution and laws.

The case at bar, however, is not such a trict court for a great number of years, which is a discrimination against the plaintiff in error, since he is a person of color and of African descent, known as a megro; and that such discrimination is a negro; and that the court of the United States, the such and the such and the negro; and that such discrimination is a denial to him of the equal protection of the laws and of his civil rights guaran-teed by the constitution and laws of the United States, to which ruling of the court the plaintiff in error duly excepted, which exception appears of record in the case.

SECOND ASSIGNMENT OF ERROR. Because the court of criminal appeals should have reversed the case because of the error in the trial court in refusing to permit the plaintiff in error to introduce evidence in support of and to prove the allegations of his motions to quash the in-dictment and to quash the panel of petit jurors impaneled to try said cause and in disposing of said motions without permit-ting an investigation of the matters of fact therein alleged, to which action of the court the plaintiff in error duly excepted, which exception appears of record

to or persons of African descent, Attorney for Seth Carter, Plaintiff in

Error. It is not considered necessary in this triusively of persons of the col-time while all persons of the col-of persons of African descent, case in order to make out, on behalf of the erpersons of African descent, take in order to make out, on behalf of the segrees, although consisting of defendant in error, a case of murder in smilltring one-fourth of the poputate of the registered voters in said that plainting in error was desperately in the county of Galveston, and, allowed with Bertha Brantley long before she obtained and divorce from her husband, which occurred November 12, 1897, just the ground of their race and the have been so excluded from a case of deliberate murder in the first degree, perpetrated by plaintiff in error, arising out of his enraged jealousy upon the aring that Alberta was about to marry becamination against the defendant.

Dennis Brantley.
ARGUMENT.

There is no allegation made nor question raised that the constitution or laws of Hanary, 1898.

Florence T. Atkins.

Florence T. Atkins court, co Texas vs. Seth Carter—No. The for the ensuing term of the court, failed for the ensuing term of the court, failed for the ensuing term of the court, failed to select any negroes to be members of said grand jury and petit jury because of their race and color. He further alleges in his motion to quash the indicatement that negroes have been excluded from serving and said before pleading to the presented and read to the presented and read to the same of the court, before he said strip of the ensuing term of the court, failed to select any negroes to be members of said grand jury and petit jury because of their race and color. He further alleges in his motion to quash the indicatement that negroes have been excluded from serving on any jury in said criminal district court failed that the bill also certifies the two did that the bill also certifies the two of the motion by the officers selecting the bill as stated. Else why, if it be held to said grand jury and petit jury because of their race and color. He further alleges in his motion to wash the said grand jury and petit jury because of their race and color. He further alleges in his motion to wash the inhibit and certify the fact that no plea was entered. In the fact that no plea was entered. It is a stated. Else why, if it be held to said grand jury and petit jury because of the it also stated. Else why, if it be held to said grand jury and petit jury because of the bill as stated. Else why, if it be held to said grand jury and petit jury because of the bill as stated. Else why, if it be held to said grand jury and petit jury because of the bill as stated. Else why, if it be held to said grand jury and petit jury because of their race and color. He further alleges might it not with the same propriety be their that no plea was entered. In the motion was entered. In this motion to with the same propriety be the fa

and the court of the uniform of any state of the State of any State of

for a new trial, and included therein the Nosi 1 and 2. (Tr., p. 27.) This motion the everused by the court on the same and the fact.

After the motions for new trial and arrest of judgment were overruled, notive of appeal to the court of criminal appeals was duly given and entered of record. (Tr., p. 29.)

An opinion was filed and delivered June 8, 1998, by the court of criminal appeals, the court of last resort in Texas in all criminal matters, which affirmed the opinion of the criminal district court of Gaiveston county.

A motion for rehearing of the case was filed June 18, 1898, by plaintiff in error. (Tr., p. 37.)

The court of criminal appeals delivered for the court of criminal appeals delivered to be the court of criminal appeals delivered for all the facts.

It is not conceded; as in the case of Neal vs. Delaware; that negroes are accluded from the juries in this State, but it is denied that such is the case, and the presumption is that they vote and serve on juries. The contrary must be proven when it is so alleged. In the case above cited, the accused made a motion to have subpostas sisued for the commissioners of the levy court, which court makes the annual selection of grand and pressible proventies and leave court. This was objected to be the court of criminal appeals delivered for the court of the State of Delaware, the motion to quash the indictment and panel of petit jurors having already been passed upon. The motion for the criminal appeals delivered for the court of th

United States for the Eastern district of Texas.

The following are the assignments of error filed December 21, 1808, by plaintiff in error:

Seth Carter, Plaintiff in Error vs. the State of Texas, Defendant in Error—in the Court of Criminal Appeals of the State of Texas.

And now comes the said plaintiff in error, by his attorney, and makes the following assignment of error in the rulings and proceedings of the court below, upon which he relies, and expects to obtain a and proceedings of the court below, upon which he relies, and expects to obtain a reversal in the supreme court of the United States, to-wit:

FIRST ASSIGNMENT OF ERROR.

Because the court of criminal appeals should have reversed the case because of the error in the trial court in overruling the defendant's motion to quash the indictment, and to quash the panel of petit jurors impaneled to try the case, the said motions being made on the ground that the jury commissioners appointed to select the list of petit jurors from which the

the prosecuting attorney that the affidavit proof to substantiate the averment. It is of plaintiff in error could be used as proof in matter of which the court could not take of the allegations contained in his motions in the court of the averment was the court of the averment of the averment was the court of the averment. of the allegations contained in his motions to quash the panel of grand jurors and the panel of petit jurors; no fact of which the district judge could take judicial cognizance, such as that no negro had ever and color in this particular case at bar, of Texas. All these things, the necessary and material elements in the denials of his civil rights to the accused in the case of the case o of Texas. All these things, the necessary and material elements in the denials of his civil rights to the accused in the case of Neal vs. Delaware, are wanting in the case at bar. Here we have a record showing that the motion to quash the indicting that the practice of the trial courts of this state, the accused should, before the case was called for trial, have caused to be dissed subpoenas for the witness by whom the expected to prove the allegations in his motion. He should have tendered the wilness in person and by name to the missed subpoenas for the witness to prepare his bill of exceptions and to put the accused had the sight to take time to prepare his bill of exceptions and to put therein what he expected to prove by each wilness. Article 724 of the code of crimal procedure, revised statutes of Texas, as 1895, is as follows: "On the trial of any ecriminal action the defendant, by himself on the case, and the judge shall sign stick bill of exceptions, under the rules presented in civil sults, in order that such section, opinion, order or charge of the court or charge may be raised upon appeal."

Under the procedure of the State of Charge and practice of the court or ciminal and practice of the court or ciminal and practice of the court or ciminal and practice of the court of ciminal and practice of t

and as given in a bill of exceptions, the higher court will look to the bill of ex-

for a new trial had been overruled, and not that the court intended to admit and certify the fact that the grounds set out in the motion were true and well taken. No other construction is warranted by the hill as stated. Else why, if it be held to certify the fact that no plea was entered, might it not with the same propriety be held that the bill also certifies the two other grounds of the motion, viz: 'First, that the verdict of the jury was contrary to the law and to the evidence; second, the verdict of the jury was excessive.' The act of congress of March 1, 1875. to the law and the evidence of that it charter that said motion, the deland law of the court to introcharter and offered to introduce sessing all other qualifications which are
the prove and sustain the allegaan made, but the court refused
the said support of the said
the said offered in support of the said
the said offered in support of the said
the said offered to introduce of that it was excessive, and yet at the same time
has placed itself upon recard as having refused him a new trial, in the face of
the said motion, the decharter that it was excessive, and yet at the same time
has placed itself upon recard as having refused him a new trial, in the face of
the said motion, the decharter that it was excessive, and yet at the same time
has placed itself upon recard as having refused him a new trial, in the face of
the said motion, the decharter that it was excessive, and yet at the same time
has placed itself upon recard as having refused him a new trial, in the face of
the said motion, the decharter that it was excessive, and yet at the same time
has placed itself upon recard as having refused him a new trial, in the face of
the said motion, the decharter that it was excessive, and yet at the same time
has placed itself upon recard as having refused him a new trial, in the face of
the said motion, the decharter that it is the said that the court is the said that the said that



I do not believe there is a case of dyspep-aia, indigestion of any stowach trouble that cannot be re-lieved at once and permanently cured by my DYSPEPSIA CURE.

MUNYON:
At all druggista,
25c. a vial. Guide
to Health and medical advice free, 1505
Arch street, Phila.

made by accused or his counsel which is included in the bill of exceptions, simply by approving same and ordering it make a part of the record. That part of the record in this case which involves the point being discussed appears as tollows (Tr., pp. 3 and 4):
"The State of Texas vs. Seth Carter. No. 11,876. Indicted for murder.

11.876. Indicted for murder.

"This day this causa was called, and
the State appeared by her district attorncy and the defendant, Seth Carter, appeared in person, his counsel also being present, and then came on to be heard the defendant's motion to quash and set aside the indictment herein; and the came having been heard by the court, it is considered, ordered and adjudged by the said court that the said motion be, and the same is, in all things overruled, to which ruling of the court the defenant, Seth Carter, in open court excepted."

It is to be presumed that the honorable judge of the trial court did his duty in

Dennis Brantley.

ARGUMENT.

This is not a case in which there was any attempt to remove the case from the criminal district court of Galveston county into the circuit court of the United States by or under the authority of article 641, revised statutes of the United States.

There is no allegation made nor question raised that the constitution or laws for the State of Texas in any way discrimof the Sta in this matter by having limited or qual

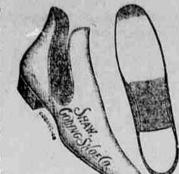
the motion. Under the practice in our courts, and we believe under the practice of all courts, a bare proposition to prave certain facts without tendering the wit-

## About Time presents you want to give

than a pair of nice Shoes or Slippers? They are a sensible present and always an acceptable one. We have a large variety to select from, and at prices that we know will suit you. Let us show you some of them.

Men's Velvet Embroidered Slippers (like cut)...90c Mens' Imitation Alligator Slippers, 

Men's Black or Brown Dongola Slippers, 1.25 Men's Black or Tan Imitation Seal Slippers, 1.50 and.....



Men's Black or Tan Dongola Nullifiers, 2.50 2.00 and 1.50

Ladies' Black Fell Juliets, leather at. . . . . 1.00 sole,

Ladies' Black, Brown or Gray [Feit Juliets, leather

Ladies' Black or Blue Felt Opera Slippers..... 1.25 Ladies' Black Dongola Slippers, felt lined.....1.25 Ladies' Black Felt Slippers, felt sole............ 60c Ladies' Black Felt Lace Shoes, kid foxed, 1.75, 1.50 and Opera. 1.25 Ladies' Strap Slippers, Common Sense Ladies' Strap Slippers, Opera, 1 or

Our Chikiren's Shoes are all strong and serviceable, the kind that children need.

Boys' Leather Leggins ..... 1.50 

We have a particularly good line of Ladies' High Shoes in Lace and Button, both in heel and spring heel, and on stylish, up-to-date toes. They are-

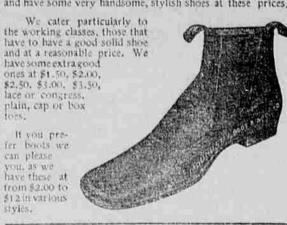
1.25 1.50 2.00 2.50 3.00 3.50



Men's Shoes has always been our strong point, We have a larger and better selected stock than any other house in Houston, and at the right prices. We have them at from \$1.25 to

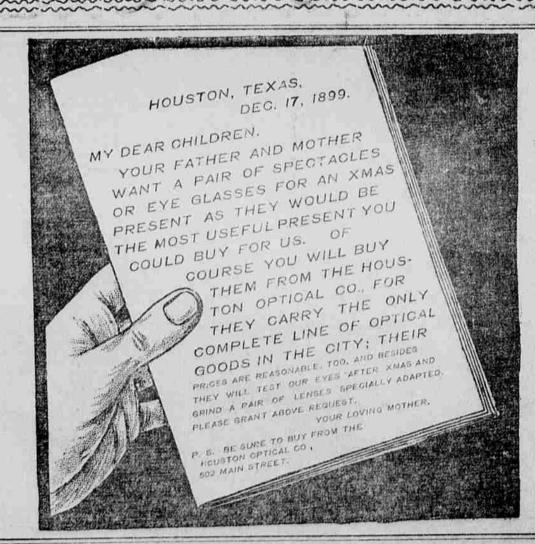
a variety of toes

and leathers. We are extra strong in our \$3.50 and \$5.00 grades and have some very handsome, stylish shoes at these prices,



Special our raminant tables. Gome in and see them. Button Shoes, 75c, 98c and \$1.25

## Achenbach & Schulte Congress Ave.



on account of his race or color. This official duties think, ought this to be the criminal appeals of the State of Texas, question has not been heretofore passed Especially, we think, ought this to be the criminal appeals of the State of Texas, question has not been heretofore passed Especially, we think, ought this to be the criminal appeals of the State of Texas. on by this court, and as the duty of select- sule with reference to our judiclars. It ing and summoning juries is devolved is unrecessary to consider the question as ing and summoning juries is devolved is unrecessary to consider the question as upon merely ministerial officers, we ought to whether or not the trial court stred in to assume that, in performing their du-overruling the motion to quash the pannities, they obeyed the statute as charted or path juryer. The trial court may have by the legislature, and that they excluded colored persons from the jury because the statute declares them to be incompetent, and consequently that the appeller was deprived by the statute of a circle of the superson court holds in the property of the superson court holds in the property of the superson court holds.

on account of his race or color." This official duties. This is as it should be, the judgment as rendered by the court of

Attorney General. Office Assistant Attorney General.

For Defendant in Error.